

Consideration of preliminary adoption of miscellaneous rule amendments to 312 IAC 18, pertaining to entomology and plant pathology; Administrative Cause No. 09-146E

The amendments to 312 IAC 18, pertaining to entomology and plant pathology, proposed incorporate statutory amendments that become effective July 1, 2009. 312 IAC 18-1-13 is amended to update the definition of “pest” or “pathogen” to include all manner of invasive pests in Indiana.

312 IAC 18-2-2 is proposed to be amended to allow the director to establish quarantine boundaries that are easier for the public and industry to comply with and understand. In addition, the change also provides the ability to create boundaries that are more biologically sound. Establishing quarantines is an effective management tool as it provides awareness of the pest problem and stimulus for the public to take the correct action.

The U.S. Environmental Protection Agency requires that the production of pest and pathogen free seedlings establish an official treatment that includes the below ground portion of the seedling. 312 IAC 18-3-22 is added to set standards for pre-plant soil fumigation of seedling nursery beds using methyl bromide.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #09-

DIGEST

Amends 312 IAC 18-1-13 to update the definition of “pest” or “pathogen”.
Amends 312 IAC 18-2-2 to allow the director to establish and modify boundaries of a quarantined area of invasive pests or pathogens. Adds 312 IAC 18-3-22 to establish methyl bromide as an official control treatment for pre-plant soil fumigation of forest seedling nursery beds to assure pest free nursery stock. Effective 30 days after filing with the Publisher.

312 IAC 18-1-13 312 IAC 18-2-2 312 IAC 18-3-22

312 IAC 18-1-13 "Pest or pathogen" defined

Authority: IC 14-10-2-4; IC 14-24-3
Affected: IC 14-24

Sec. 13. "Pest or pathogen" means an arthropod, nematode, micro-organism, **fungus, parasitic plant, mollusk, exotic weed**, or plant disease that may be injurious to nursery stock, agricultural crops, other vegetation, **natural resources**, or bees. (*Natural Resources Commission; 312 IAC 18-1-13; filed Nov 22, 1996, 3:00 p.m.:20 IR 941; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; readopted filed Sep 19, 2008, 10:23 a.m.: 20081008-IR-312080076RFA*)

312 IAC 18-2-2 Infested areas; quarantines

Authority: IC 14-10-2-4; IC 14-24-3
Affected: IC 14-24

Sec. 2 (a) The division may inspect any site in Indiana where agricultural, horticultural, or sylvan products are being grown, shipped, sold, or stored to determine if a pest or pathogen is present. If, as a result of an inspection, a site is determined to be infested with a pest or pathogen that is likely to spread or communicate to adjacent or contiguous territory in an adjoining ~~township area~~, the director may ~~declare all or part of the township~~ **prescribe the boundaries of an area** where the pest or pathogen is located **and declare the area** to be an infested area.

(b) The division director shall formulate a quarantine under section 3 of this rule for an infested area declared under subsection (a). The quarantine may restrict or prohibit the transportation, maintenance, or continued existence of designated plants, plant products, elements of beekeeping, pests or pathogens, animal products, or other articles or materials known or reasonably believed to harbor or carry pests or pathogens. (*Natural Resources Commission; 312 IAC 18-2-2; filed Nov 22, 1996, 3:00 p.m.:20 IR 942; readopted Oct 2, 2002, 9:10 a.m.: 26 IR 546; readopted filed Sep 19, 2008, 10:23 a.m.: 20081008-IR-312080076RFA*)

312 IAC 18-3-22 Production of pest and pathogen free nursery stock

Authority: IC 14-24-5-3

Affected: IC 14-24

Sec. 22. (a) A nursery producing nursery stock in seedling nursery beds for reforestation, afforestation, or other natural resource purposes to be replanted intrastate or interstate is regulated under this section per IC 14-24-5-3.

(b) Pre-plant soil fumigation of seedling nursery beds is an official control treatment to meet quarantine requirements and to assure pest and pathogen free seedlings, including underground portions, for nurseries regulated under section (a) and IC 14-24.

(1) Methyl Bromide pre-plant soil fumigation is the preferred and recommended control method to produce apparently pest and pathogen free seedlings.

(2) All pre-plant soil fumigation treatments shall be done using state and federally-registered pesticides in accordance with pesticide label directions.

(3) Alternate control treatments to produce apparently pest and pathogen free nursery stock in seedling nursery beds for reforestation, afforestation, or other natural resource purposes shall be approved by the State Entomologist or designee prior to treatment.